

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re

April D. Eanes
2331 Georges Road
Powhatan, VA 23139
SSN/ITIN: xxx-xx-9652,

Case No. 17-31626-KRH
Chapter 7

Debtor(s).

**NOTICE OF MOTION TO DISMISS CASE
WITH PREJUDICE AND HEARING THEREON**

PLEASE TAKE NOTICE THAT the United States Trustee has filed with the Court a Motion To Dismiss Case With Prejudice (the "Motion") in the above-captioned case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in the Motion or if you want the Court to consider your views on the Motion, then on or before **seven (7) days** before the scheduled hearing date, you or your attorney must:

(X) File with the Court, at the address below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. You must mail or otherwise file it early enough so the Court will **receive** it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street – Suite 4000
Richmond, Virginia 23219

You must also mail a copy to:

Shannon Pecoraro, Esq.
Office of the United States Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219

(x) Attend a hearing, which has been scheduled for **May 31, 2017 at 12:30 p.m. in the United States Bankruptcy Court, 701 E. Broad Street, Courtroom 5000, Richmond, VA 23219 before the Honorable Judge Kevin R. Huennekens.**
If you or your attorney do not take these steps, the Court may decide that you do

not oppose the relief sought in the Motion and may enter an Order granting the relief requested

JUDY A. ROBBINS
United States Trustee
Region Four

By /s/ Shannon Pecoraro
Shannon Pecoraro
Trial Attorney

CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2017, a true copy of the foregoing was delivered via electronic mail pursuant to the Administrative Procedures of the CM/ECF System for the United States Bankruptcy Court for the Eastern District of Virginia to all necessary parties. In addition, a copy was mailed to the following:

April D. Eanes
2331 Georges Road
Powhatan, VA 23139

/s/ Shannon Pecoraro
Shannon Pecoraro
Trial Attorney

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

April D. Eanes,

Chapter 7

Debtor(s).

Case No. 17-31626-KRH

MOTION TO DISMISS CASE WITH PREJUDICE

Judy A. Robbins, the United States Trustee for Region Four, by counsel, respectfully moves this Court to dismiss the case of April D. Eanes (the “Debtor”), with prejudice with a prohibition from re-filing of a bankruptcy case under any chapter of the Bankruptcy Code in any jurisdiction in the United States for a period of at least one (1) year, and in support thereof, states as follows:

Parties

1. Judy A. Robbins (the “U.S. Trustee”) is the United States Trustee for Region Four.
2. April D. Eanes is the *pro se* Debtor in this case.
3. On or about March 30, 2017, Bruce E. Robinson (the “Chapter 7 Trustee”) was appointed Chapter 7 Trustee in this case and has remained Trustee since that appointment.
4. The §341 Meeting of Creditors is scheduled for May 2, 2017.

Jurisdiction and Venue

5. This motion is commenced pursuant to Rule 9013 of the Federal Rules of Bankruptcy Procedure.
6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334

and 11 U.S.C. §§ 105 and 707(a). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (J).

7. This Motion is brought by the U.S. Trustee in furtherance of her duties as set forth in 28 U.S.C. § 586(a)(3) and (5) and is filed for the specific purpose of having the dismissal of this case be with prejudice with a prohibition from re-filing any bankruptcy case under any chapter of the Bankruptcy Code in any jurisdiction of the United States for a period of at least one (1) year.

Background

8. On or about March 29, 2017 (the “Petition Date”), the Debtor filed the instant case under Chapter 7 of the Bankruptcy Code, 11 U.S.C. § 101, *et seq.* (the “Bankruptcy Code”), designated as Case Number 17-31626-KRH (the “Current Case”).

9. This is the Debtor’s third (3rd) bankruptcy case filed since November 29, 2016.

10. Specifically, the Debtor filed the following cases in the United States Bankruptcy Court in the Eastern District of Virginia - Bankruptcy Case Number 16-35801-KLP (the “First Case”), Bankruptcy Case Number 17-30382-KLP (the “Second Case”) and the Current Case.

11. The Debtor filed *pro se* the First Case, a Chapter 7, on November 29, 2016. Bruce E. Robinson, was appointed Chapter 7 Trustee in the First Case. The Debtor’s §341 meeting of creditors was scheduled for January 3, 2017. The First Case was dismissed on December 21, 2016, for the Debtor’s failure to timely file schedules and statements. A copy of the docket in the First Case is attached hereto as Exhibit A.

12. The Debtor filed *pro se* the Second Case, a Chapter 13, on January 26, 2017. Carl M. Bates, was appointed Chapter 13 Trustee in the Second Case. The Debtor’s §341 meeting of Creditors was scheduled for March 16, 2017. The Second Case was dismissed on February 16,

2017 for failure to timely file schedules, statements and chapter 13 plan. A copy of the docket in the Second Case is attached hereto as Exhibit B.

13. The Debtor filed *pro se* the Current Case, the Third Case, Bankruptcy Case Number 17-31626-KRH, a Chapter 7, on March 29, 2017. Bruce E. Robinson, was appointed Chapter 7 Trustee in the Third Case. As has been the Debtor's pattern in the prior cases, the Debtor has failed to file schedules or statements that were due on April 12, 2017. A copy of the docket in the Current Case is attached hereto as Exhibit C.

14. 11 U.S.C. § 105 provides, in pertinent part, that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

15. 11 U.S.C. § 707(a) provides as follows:

- (a) The court may dismiss a case under this chapter only after notice and hearing and only for cause, including –
 - (1) Unreasonable delay by the debtor that is prejudicial to creditors
 - (2) Nonpayment of any fees or charges required under chapter 123 of title 28; and
 - (3) Failure of the debtor in a voluntary case to file, within fifteen days or such additional time as the court may allow after the filing of the petition commencing such case, the information required by paragraph (1) of section 521, but only on a motion of the United States trustee.

11 U.S.C. 707(a) (2017)

Argument

16. The Debtor's history is not necessarily extensive, but recent, and evidences a pattern of failing to timely file schedules or statements.

17. The history of the Debtor's bankruptcy filings by filing three (3) bankruptcy cases in less than one (1) year demonstrates that the Debtor is using the system to cause delay that is prejudicial to creditors.

18. The Current Case is yet another in a series of cases in which the Debtor fails to timely file schedules and statements and indicates cause.

19. Given the history of bankruptcy filings with repeated dismissals, the Debtor should be prohibited from any further filings in this Court and in any other Bankruptcy Court in the United States for a period of at least one (1) year.

WHEREFORE, the U.S. Trustee, by counsel, respectfully requests that the Court (a) dismiss this case with prejudice against the Debtor filing any other bankruptcy case in any jurisdiction in the United States under any chapter of the Bankruptcy Code for a period of at least one (1) year from the entry of the Order on the Court's docket and (b) grant the U.S. Trustee such other and further relief which the Court may deem equitable and just.

Respectfully submitted,

JUDY A. ROBBINS
U.S. Trustee for Region Four

By: /s/ Shannon Pecoraro
Shannon Pecoraro

CERTIFICATION OF SERVICE

I hereby certify that on April 28, 2017, a true copy of the foregoing was delivered via electronic mail pursuant to the Administrative Procedures of the CM/ECF System for the United States Bankruptcy Court for the Eastern District of Virginia to all necessary parties. In addition, a copy was mailed to the following:

April D. Eanes
2331 Georges Road
Powhatan, VA 23139

/s/ Shannon Pecoraro _____
Shannon Pecoraro
Trial Attorney

FinMgt, DISMISSED, CLOSED

**U.S. Bankruptcy Court
Eastern District of Virginia (Richmond)
Bankruptcy Petition #: 16-35801-KLP**

Assigned to: Keith L. Phillips
Chapter 7
Voluntary
No asset

Date filed: 11/29/2016
Date terminated: 01/25/2017
Debtor dismissed: 12/21/2016
341 meeting: 01/03/2017
Deadline for objecting to discharge: 03/06/2017

Debtor disposition: Dismissed for Failure to File
Information

Debtor

April D. Eanes
2331 Georges Road
Powhatan, VA 23139
POWHATAN-VA
SSN / ITIN: xxx-xx-9652
aka April Eanes

represented by **April D. Eanes**
PRO SE

Trustee

Bruce E. Robinson
P.O. Box 538
415 E. Atlantic Street
South Hill, VA 23970-0538
(434) 447-7922

Filing Date	#	Docket Text
11/29/2016	<u>1</u> (10 pgs)	Chapter 7 Voluntary Petition for Individuals Filed by April D. Eanes. (Manley, Candace)
11/29/2016	<u>2</u>	Official Form 121 - Statement About Social Security Number (Manley, Candace)
11/29/2016	3	Receipt of Petition Filing Fee. Receipt Number 115850. Fee Amount \$335.00. (manleyc)
11/30/2016	4	Meeting of Creditors: 01/03/2017, 11:00 AM, Office of the U.S. Trustee, 701 East Broad St., Suite 4300, Richmond, Virginia. Objections to Discharge/Dischargeability due by 03/06/2017. Interim Trustee: Bruce E. Robinson, .

11/30/2016	<u>5</u>	LBR 1007-1 Schedule(s) and/or Statement 1007-3 Statement of Intention Deficiency; Incomplete Filings due by 12/13/2016. Statement of Intention due 12/29/2016. (Luedecke, Tammy)
12/02/2016	<u>6</u> (2 pgs)	Notice of LBR 1007-1 Deficiency (Re: related document(s) 5 LBR 1007-1, and/or 1007-3, and/or 3015 Case Filing/Plan Deficiency) (Admin.) (Entered: 12/03/2016)
12/02/2016	<u>7</u> (2 pgs)	Notice of LBR 1007-3 Deficiency (Re: related document(s) 5 LBR 1007-1, and/or 1007-3, and/or 3015 Case Filing/Plan Deficiency) (Admin.) (Entered: 12/03/2016)
12/02/2016	<u>8</u> (4 pgs)	Notice of Meeting of Creditors (Re: related document(s) 4 Auto Assign Meeting of Creditors Chapter 7 Individual/Joint) (Admin.) (Entered: 12/03/2016)
12/02/2016	<u>9</u> (3 pgs)	Order to Debtor(s) (Admin.) (Entered: 12/03/2016)
12/02/2016	<u>10</u> (2 pgs)	Notice of Electronic Filing Procedure (Admin.) (Entered: 12/03/2016)
12/02/2016	<u>11</u> (2 pgs)	Notice of Requirement to Complete Course in Personal Financial Management and to File Certification. (Admin.) (Entered: 12/03/2016)
12/05/2016	<u>12</u> (1 pg)	Notice of Appearance filed by Johnie Rush Muncy of Samuel I. White, P.C. on behalf of Wells Fargo Financial System Virginia, Inc. (Muncy, Johnie)
12/20/2016	<u>13</u> (23 pgs)	Motion for Relief from Stay Re: 2331 Georges Road, Powhatan, VA 23139 with Notice of Hearing, filed by Nisha Ryan Patel of Samuel I. White, P.C. on behalf of Wells Fargo Financial System Virginia, Inc. Hearing scheduled for 1/11/2017 at 09:00 AM at Judge Phillips' Courtroom, 701 E. Broad St., Rm. 5100, Richmond, Virginia. (Patel, Nisha)
12/20/2016	14	U.S. Treasury receipt of Motion for Relief from Stay(16-35801-KLP) [motion,185] (181.00) filing fee. Receipt number 25335194, amount \$ 181.00. (Re: Doc# <u>13</u>) (U.S. Treasury)
12/21/2016	<u>15</u> (1 pg)	Local Bankruptcy Rule Order Dismissing Case (Re: related document(s) 5 LBR 1007-1, and/or 1007-3, and/or 3015 Case Filing/Plan Deficiency) (Luedecke, Tammy)

12/21/2016	16	Hearing Cancelled; Case Dismissed; (Re: related document (s) <u>13</u> Motion for Relief from Stay filed by Wells Fargo Financial System Virginia, Inc). (Rintye, Peggy)
12/23/2016	<u>17</u> (2 pgs)	Notice of Dismissal (Re: related document(s) <u>15</u> Local Bankruptcy Rule Order Dismissing Case) (Admin.) (Entered: 12/24/2016)
12/23/2016	<u>18</u> (2 pgs)	BNC certificate of mailing of order (Re: related document(s) <u>15</u> Local Bankruptcy Rule Order Dismissing Case) (Admin.) (Entered: 12/24/2016)
01/25/2017	19	Case Closed. The Chapter 7 case having been dismissed, the case is hereby closed and all pending adversary proceedings and motions are subject to the effects of dismissal pursuant to 11 U.S.C. Section 349. The Trustee in this case is hereby discharged. (Luedecke, Tammy)

PACER Service Center			
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04/26/2017 10:51:39			
PACER Login:	us5711:2655074:4299065	Client Code:	
Description:	Docket Report	Search Criteria:	16-35801-KLP Fil or Ent: filed Doc From: 0 Doc To: 99999999 Format: html Page counts for documents: included
Billable Pages:	2	Cost:	0.20

FinMgt, DISMISSED, CLOSED

**U.S. Bankruptcy Court
Eastern District of Virginia (Richmond)
Bankruptcy Petition #: 17-30382-KLP**

Assigned to: Keith L. Phillips
Chapter 13
Voluntary
Asset

Date filed: 01/26/2017
Date terminated: 04/07/2017
Debtor dismissed: 02/16/2017
341 meeting: 03/16/2017

Debtor disposition: Dismissed for Failure to File
Information

Debtor

April D. Eanes
2331 Georges Road
Powhatan, VA 23139
POWHATAN-VA
SSN / ITIN: xxx-xx-9652
aka April Eanes

represented by **April D. Eanes**
PRO SE

Trustee

Carl M. Bates
P. O. Box 1819
Richmond, VA 23218
(804) 237-6800

Filing Date	#	Docket Text
01/26/2017	<u>1</u> (11 pgs)	Chapter 13 Voluntary Petition Filed by April D. Eanes. (Baumgartner, Cindy)
01/26/2017	<u>2</u>	Official Form 121 - Statement About Social Security Number (Baumgartner, Cindy)
01/26/2017	3	Receipt of Petition Filing Fee. Receipt Number 115967. Fee Amount \$310.00. (baumgartnerc)
	4	Meeting of Creditors: 03/16/2017, 10:00 AM, Office of the U.S. Trustee, 701 East Broad St., Suite 4300, Richmond, Virginia. Proofs of Claim due by 06/14/2017. Government Proofs of Claim due by 07/25/2017. Confirmation hearing: 04/26/2017, 09:10 AM, Judge Phillips' Courtroom, 701 E.

01/27/2017		Broad St., Rm. 5100, Richmond, Virginia. Interim Trustee: Carl M. Bates, .
01/27/2017	<u>5</u>	LBR 1007-1 Schedule(s) and/or Statement and 3015-2 Chapter 13 Plan and Related Motions Deficiency; Plan Due 2/9/2017. Incomplete Filings due by 2/9/2017. (Bullock, Nathaniel)
01/29/2017	<u>6</u> (4 pgs)	Notice of Meeting of Creditors (Re: related document(s) 4 Auto Assign Meeting of Creditors Chapter 13) (Admin.) (Entered: 01/30/2017)
01/29/2017	<u>7</u> (2 pgs)	Notice of Electronic Filing Procedure (Admin.) (Entered: 01/30/2017)
01/29/2017	<u>8</u> (2 pgs)	Notice of LBR 1007-1 and LBR 3015-2 Deficiency (Re: related document(s) 5 LBR 1007-1, and/or 1007-3, and/or 3015 Case Filing/Plan Deficiency) (Admin.) (Entered: 01/30/2017)
01/29/2017	<u>9</u> (2 pgs)	Notice of Requirement to Complete Course in Personal Financial Management and to File Certification. (Admin.) (Entered: 01/30/2017)
02/16/2017	<u>10</u> (1 pg)	Local Bankruptcy Rule Order Dismissing Case (Re: related document(s) 5 LBR 1007-1, and/or 1007-3, and/or 3015 Case Filing/Plan Deficiency) (Bullock, Nathaniel)
02/17/2017	<u>11</u> (3 pgs)	Chapter 13 Trustee Final Report and Account. (Bates, Carl)
02/18/2017	<u>12</u> (2 pgs)	Notice of Dismissal (Re: related document(s) <u>10</u> Local Bankruptcy Rule Order Dismissing Case) (Admin.) (Entered: 02/19/2017)
02/18/2017	<u>13</u> (2 pgs)	BNC certificate of mailing of order (Re: related document(s) <u>10</u> Local Bankruptcy Rule Order Dismissing Case) (Admin.) (Entered: 02/19/2017)
02/21/2017	<u>14</u> (1 pg)	Request for Notice/Service filed by Synchrony Bank c/o PRA Receivables Management, LLC.(Smith, Valerie)
	15	Case Closed. The Chapter 13 case having been dismissed, the case is hereby closed and all pending adversary proceedings and motions are subject to the effects of dismissal pursuant to 11 U.S.C. Section 349. The Trustee in

04/07/2017	this case is hereby discharged. (Bullock, Nathaniel)
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Billable Pages:	1	Cost:	0.10

FinMgt

**U.S. Bankruptcy Court
Eastern District of Virginia (Richmond)
Bankruptcy Petition #: 17-31626-KRH**

Assigned to: Kevin R. Huennekens
Chapter 7
Voluntary
No asset

Date filed: 03/29/2017
341 meeting: 05/02/2017
Deadline for objecting to discharge: 07/03/2017

Debtor

April D. Eanes
2331 Georges Road
Powhatan, VA 23139
POWHATAN-VA
SSN / ITIN: xxx-xx-9652
aka April Eanes

represented by **April D. Eanes**
PRO SE

Trustee

Bruce E. Robinson
P.O. Box 538
415 E. Atlantic Street
South Hill, VA 23970-0538
(434) 447-7922

Filing Date	#	Docket Text
03/29/2017	<u>1</u> (11 pgs)	Chapter 7 Voluntary Petition for Individuals Filed by April D. Eanes. (Ramirez-Lowe, Suzan)
03/29/2017	<u>2</u>	Official Form 121 - Statement About Social Security Number (Ramirez-Lowe, Suzan)
03/29/2017	3	Receipt of Petition Filing Fee. Receipt Number 116093. Fee Amount \$335.00. (ramirez-lowes)
03/30/2017	4	Meeting of Creditors: 05/02/2017, 04:00 PM, Office of the U.S. Trustee, 701 East Broad St., Suite 4300, Richmond, Virginia. Objections to Discharge/Dischargeability due by 07/03/2017. Interim Trustee: Bruce E. Robinson, .
	5	LBR 1007-1 Schedule(s) and/or Statement 1007-3 Statement of Intention Deficiency; Incomplete Filings due

03/31/2017		by 4/12/2017. Statement of Intention due 4/28/2017. (Muller, Terry)
04/02/2017	<u>6</u> (2 pgs)	Notice of LBR 1007-1 Deficiency (Re: related document(s) 5 LBR 1007-1, and/or 1007-3, and/or 3015 Case Filing/Plan Deficiency) (Admin.) (Entered: 04/03/2017)
04/02/2017	<u>7</u> (2 pgs)	Notice of LBR 1007-3 Deficiency (Re: related document(s) 5 LBR 1007-1, and/or 1007-3, and/or 3015 Case Filing/Plan Deficiency) (Admin.) (Entered: 04/03/2017)
04/02/2017	<u>8</u> (4 pgs)	Notice of Meeting of Creditors (Re: related document(s) 4 Auto Assign Meeting of Creditors Chapter 7 Individual/Joint) (Admin.) (Entered: 04/03/2017)
04/02/2017	<u>9</u> (3 pgs)	Order to Debtor(s) (Admin.) (Entered: 04/03/2017)
04/02/2017	<u>10</u> (2 pgs)	Notice of Electronic Filing Procedure (Admin.) (Entered: 04/03/2017)
04/02/2017	<u>11</u> (2 pgs)	Notice of Requirement to Complete Course in Personal Financial Management and to File Certification. (Admin.) (Entered: 04/03/2017)
04/17/2017	<u>12</u> (26 pgs)	Motion for Relief from Stay Re: 2331 Georges Road, Powhatan, VA 23139 with Notice of Hearing, filed by Johnie Rush Muncy of Samuel I. White, P.C. on behalf of Wells Fargo Financial System Virginia, Inc.. Hearing scheduled for 5/17/2017 at 11:00 AM at Judge Huennekens' Courtroom, 701 E. Broad St., Rm. 5000, Richmond, Virginia. (Muncy, Johnie)
04/17/2017	13	U.S. Treasury receipt of Motion for Relief from Stay(17-31626-KRH) [motion,185] (181.00) filing fee. Receipt number 26056726, amount \$ 181.00. (Re: Doc# <u>12</u>) (U.S. Treasury)

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